

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
DAVON M. DUFFY, :
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Plaintiff, :
:
-against- :
:
COMMISSIONER OF SOCIAL SECURITY, :
:
Defendant. :
:
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1:17-cv-3560-GHW

ORDER ADOPTING
REPORT AND
RECOMMENDATION

GREGORY H. WOODS, United States District Judge:

On May 11, 2017, then-*pro se* Plaintiff Davon Duffy filed a complaint pursuant to 42 U.S.C. § 1383(c)(3) seeking review of a determination of the Commissioner of Social security finding that he is not entitled to Supplemental Security Income (“SSI”). By order dated June 25, 2017, the Court referred this matter to Magistrate Judge Parker for a Report and Recommendation (“R&R”). Dkt. No. 16. On September 20, 2017 the referral was redesignated to Magistrate Judge Gorenstein. On September 21, 2017, Defendant filed its motion for judgment on the pleadings. Dkt. No. 23. On November 8, 2017 the referral was redesignated to Magistrate Judge Lehrburger. On March 8 and 12, counsel appeared on behalf of Plaintiff. Dkt. Nos. 27, 28. On March 20, 2018 Plaintiff requested an extension of the deadline to file opposition to Defendant’s motion. Dkt. No. 29. That motion was granted in part on March 22, 2018. Dkt. No. 30. Plaintiff filed a motion for judgment on the pleadings and opposing Defendant’s motion on May 21, 2018. Dkt. No. 33. Defendant filed its reply on June 4, 2018. Dkt. No. 39. Judge Lehrburger issued his R&R on August 24, 2018, recommending that Plaintiff’s motion be granted, Defendant’s motion be denied, and that the case be remanded so that the Commissioner can “further develop the record and, in light of that fully developed record, reassess whether [Plaintiff] is disabled under” 42 U.S.C. § 1383. Dkt. No. 40 at 1, 47. The R&R advised that “[t]he parties shall have fourteen (14) days to file written objections.” *Id.*

No party has lodged objections to the R&R, and the time to do so has expired.

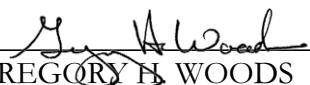
In reviewing an R&R, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court must “determine de novo any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). If no timely objections are made, however, “a district court need only satisfy itself that there is no clear error on the face of the record.” *King v. Greiner*, No. 02 Civ. 5810, 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009) (citation omitted); *see also Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

After reviewing the record, the Court finds no clear error in Judge Lehrburger’s well-reasoned and careful R&R. Accordingly, the Court adopts the R&R in its entirety, and, for the reasons set forth therein, Plaintiff’s motion is granted, Defendant’s motion is denied, and the case is remanded for further development of the record, consistent with the R&R.

The Clerk of Court is directed mail, to terminate the motions pending at Dkt. Nos. 23 and 33, and to close this case.

SO ORDERED.

Dated: September 13, 2018
New York, New York



GREGORY H. WOODS
United States District Judge